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Paper No. 12

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In re Application of  
Petiard, et al.  
Application No.: 09/849,139  
Filed: May 4, 2001  
Attorney Docket No: 88265-4022

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This is in response to the petition under 37 CFR 1.137(b) filed December 23, 2003.

The petition under 37 CFR 1.137(b) is **granted**.

On June 7, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration, \$130.00 surcharge, substitute drawings, an abstract, a statement relative to the sequence listing to be filed. A response was filed on June 22, 2001, but the response was incomplete. No further responses were received within the allowable period and the application became abandoned on August 8, 2001.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The amendment, abstract, and "Transmittal of Sequence Listing" filed December 23, 2003, are noted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

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Office of Petitions